

Medical tools, devices and equipment used for diagnostic, rehabilitative and treatment purposes do not qualify for the reduced rate of tax for medical appliances as such items, while being used for treatment of patients, are not directly substituting for a malfunctioning part of the body. See 86 Ill. Adm. Code 130.310(c). (This is a GIL.)

September 17, 2004

Dear Xxxxx:

This letter is in response to your letter dated April 14, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

This is a request for a General Information letter relating to the Illinois Regulation 130.310 "Medical Appliances".

ABC is a company selling primarily Respiratory and Anesthesia equipment and supplies to Hospitals, Home Care Dealers, Nursing Homes, Long Term Care Facilities and other licensed medical service and supply entities. We have no direct patient sales. We have included a list of products, which represent the bulk of our business sales, and we are requesting a determination of those that may be eligible for the reduced tax rate. We have attempted to describe their use, as it seems to apply relative to the regulation.

If additional clarification or explanation is needed to render an opinion, please contact me.

DEPARTMENT'S RESPONSE

From the brief description of the products included with your letter, it would appear the tracheal tubes would qualify for the lower tax rate. In addition, ventilators qualify as a direct replacement if used to substitute for a patient's lung, but not when used in another way, such as to treat patients by

administering medicine to them. If the ventilator itself qualifies, then the ventilator circuits would qualify for the lower tax rate.

The resuscitation bag, suction supplies, oxygen applications and the oxygen delivery systems would qualify for the low rate of tax, if used in a qualifying manner as intended by the manufacturer, as a direct substitute for a malfunctioning part of the body. For instance, if an oxygen delivery system was used to deliver medicine to the patient, by oral inhalation, then the item would not qualify for the low rate of tax. The oxygen delivery system would be considered a medication delivery system (akin to a medical device used in the treatment of patients) and subject to the higher rate of tax.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

EEB:msk